Texas Department of Insurance
Division of Workers' Compensation
Medical Fee Dispute Resolution, MS-48
7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645
512-804-4000 telephone • 512-804-4811 fax • www.tdi.texas.gov

MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name and Address

TROPHY CLUB MEDICAL CENTER
2850 SOUTH HIGHWAY 114
TROPHY CLUB TX 76262

Respondent Name
ZURICH AMERICAN INSURANCE CO

Carrier's Austin Representative Box
19

MFDR Tracking Number
M4-09-5849-01

MFDR Date Received
FEBRUARY 2, 2009

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary Taken from the Request for Reconsideration Letter Dated December 16, 2008: "We have determined you have processed an incorrect Medicare DRG and the implants of $44,727.57 were not processed correctly…we are requesting payment of 108% of the Medicare DRG for a reimbursement of $32,912.57 plus the cost of our implants of $44,727.57 and a maximum markup of $2,000 for the entire case. The total amount due based on TDI guidelines is $79,640.14. You have already processed and paid $40,474.95 leaving an outstanding balance for this claim of $39,165.19

Amount in Dispute: $39,165.49

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "The carrier contends that it has properly calculated reimbursement per the attached EOBs."

Response Submitted by: Flahive Ogden & Latson, P. O. Drawer 13367, Austin, TX 78711

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
March 26, 2008 Through March 27, 2008	Inpatient Hospital Surgical Services	$39,165.49	$2,549.08

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving a medical fee dispute.
2. 28 Texas Administrative Code §134.404 sets out the guidelines for reimbursement of hospital facility fees for inpatient services.

3. The services in dispute were reduced/denied by the respondent with the following reason codes:

   Explanation of benefits dated June 2, 2008
   - 468 – REIMBURSEMENT IS BASED ON THE MEDICAL HOSPITAL INPATIENT PROSPECTIVE PAYMENT SYSTEM METHODOLOGY.
   - 770 – COMPLEX BILL REVIEW.
   - W1 – WORKERS COMPENSATION STATE FEE SCHEDULE ADJUSTMENT.

   Explanation of benefits dated February 13, 2009
   - 468 – REIMBURSEMENT IS BASED ON THE MEDICAL HOSPITAL INPATIENT PROSPECTIVE PAYMENT SYSTEM METHODOLOGY.
   - 770 – COMPLEX BILL REVIEW.
   - W1 – WORKERS COMPENSATION STATE FEE SCHEDULE ADJUSTMENT.
   - ***ALLOWANCE CHANGE: DRG 455 X 108%
   - ***FOR IMPLANTS ALLOWANCE: TEXAS RULE 134.404, SECTION G – IMPLANTABLES, WHEN BILLED SEPARATELY, SHALL BE REIMBURSED @ THE LESSER OF THE MANUFACTURERS' INVOICE AMOUNT; OR THE NET AMOUNT (MINUS REBATES AND DISCOUNTS) PLUS 10% OR $1,000 PER BILLED ITEM ADD-ON, WHICHEVER IS LESS BUT NOT TO EXCEED $ 2,000 IN ADD-ON'S PER ADMISSION.

Issues

1. Were the disputed services subject to a specific fee schedule set in a contract between the parties that complies with the requirements of Labor Code §413.011?
2. Which reimbursement calculation applies to the services in dispute?
3. What is the maximum allowable reimbursement for the services in dispute?
4. Is the requestor entitled to additional reimbursement for the disputed services?

Findings

1. 28 Texas Administrative Code §134.404(e) states that: "Except as provided in subsection (h) of this section, regardless of billed amount, reimbursement shall be:
   (1) the amount for the service that is included in a specific fee schedule set in a contract that complies with the requirements of Labor Code §413.011; or
   (2) if no contracted fee schedule exists that complies with Labor Code §413.011, the maximum allowable reimbursement (MAR) amount under subsection (f) of this section, including any applicable outlier payment amounts and reimbursement for implantables."

   No documentation was found to support the existence of a contractual agreement between the parties to this dispute; therefore the MAR can be established under §134.404(f).

2. 28 Texas Administrative Code §134.404(f) states that "The reimbursement calculation used for establishing the MAR shall be the Medicare facility specific amount, including outlier payment amounts, determined by applying the most recently adopted and effective Medicare Inpatient Prospective Payment System (IPPS) reimbursement formula and factors as published annually in the Federal Register. The following minimal modifications shall be applied.
   (1) The sum of the Medicare facility specific reimbursement amount and any applicable outlier payment amount shall be multiplied by:
      (A) 143 percent; unless
      (B) a facility or surgical implant provider requests separate reimbursement in accordance with subsection (g) of this section, in which case the facility specific reimbursement amount and any applicable outlier payment amount shall be multiplied by 108 percent."

   Review of the documentation finds that that the facility requested separate reimbursement for implantables; for that reason, the requirements of subsection (g) apply.

3. 28 Texas Administrative Code §134.404(g) states, in pertinent part, that "(g) Implantables, when billed separately by the facility or a surgical implant provider in accordance with subsection (f)(1)(B) of this section, shall be reimbursed at the lesser of the manufacturer's invoice amount or the net amount (exclusive of rebates and discounts) plus 10 percent or $1,000 per billed item add-on, whichever is less, but not to exceed $2,000 in add-on's per admission.
   (1) A facility or surgical implant provider billing separately for an implantable shall include with the billing a certification that the amount billed represents the actual costs (net amount, exclusive of rebates and

discounts) for the implantable. The certification shall include the following sentence: "I hereby certify under penalty of law that the following is the true and correct actual cost to the best of my knowledge."

Review of the documentation found supports that the following items were certified as required by (g):

Itemized Statement Rev Code or Charge Code	Itemized Statement Description	Cost Invoice Description	# Units & Cost Per Unit	Cost Invoice Amount	***Per item*** Add-on (cost +10% or $1,000 whichever is less).
278	Anchor/Screw for Opposing Bone-to-Bone OR	Screw 7577545 Legacy 5.5 Cann Mas 7.5x45	4 @ $2,204.02 each	$8,816.08	$9,697.69
278	Anchor/Screw for Opposing Bone-to-Bone OR	Set Screw 7577535 G4 Internal Hex	4 @ $287.14 each	$1,148.56	$1,263.42
278	Guide Wire, Not Otherwise Specified	Instrument 8670001 SXT Guide wire Blunt	4 @ $90.16 each	$360.64	$396.70
278	Osteogenesis Stimulator, Electrical, Surgic	SPAK Bone Growth Stimulator	1 @ $5,555.00 each	$5,555.00	$6,110.50
278	Prosthetic Implant, Not Otherwise Specified	10mmx20mmx12 mm	2 @ $5,000.00 each	$10,000.00	$11,000.00
278	Prosthetic Implant, Not Otherwise Specified	No Invoice Submitted	No Invoice Submitted	No Invoice Submitted	$0.00
278	Prosthetic Implant, Not Otherwise Specified	No Invoice Submitted	No Invoice Submitted	No Invoice Submitted	$0.00
278	Prosthetic Implant, Not Otherwise Specified	Rod 8672060 Sextant 60mmTI	2 @ $639.17 each	$1,278.34	$1,406.17
278	Prosthetic Implant, Not Otherwise Specified	Cancellous, Coarse/30.0cc (A) Freeze Dried, Irrad	3 @ $335.00 each	$1,005.00	$1,105.50
278	Prosthetic Implant, Not Otherwise Specified	Biologic 7510600 Inf Bone Graft Lg Kit	1 @ $5,202.00 each	$5,202.00	$5,722.20
278	Prosthetic Implant, Not Otherwise Specified	Plateau, 10mmx20mmx13 mm	2 @ $4,500.00 each	$9,000.00	$9,900.00
				$42,365.62	$44,365.62
				Total Supported Cost	**Sum of Per-Item Add-on**

The division finds that the facility supported separate reimbursement for these implantables, and that the cost invoices were certified as required. Therefore, the MAR is calculated according to §134.404(f)(1)(B).

4. 28 Texas Administrative Code §134.404(f)(1)(B) establishes MAR by multiplying the most recently adopted and effective Medicare Inpatient Prospective Payment System (IPPS) reimbursement formula and factors (including outliers) by 108%, ***plus*** reimbursement for items appropriately certified under §134.404(g). The Medicare IPPS payment rates are found at http://www.cms.gov, and the sum of the per-item add-on for which separate reimbursement was requested are taken from the table above.

   - Documentation found supports that the DRG assigned to the services in dispute is DRG 455, and that the services were provided at Trophy Club Medical Center. Consideration of the DRG, location of the services, and bill-specific information results in total specific allowable amount of $30,474.60. This amount multiplied by 108% results in an allowable of $32,912.57.
   - The total cost for implantables is $42,365.62. The sum of the per-billed-item add-ons exceeds the $2,000.00 allowed by rule; for that reason, the total allowable amount for implantables is $42,365.62 plus $2,000.00, which equals $42,365.62.

   Therefore, the total allowable reimbursement for the services in dispute is $32,912.57 plus $42,365.62, which equals $77,278.19. The respondent issued payment in the amount of $74,729.11. Based upon the documentation submitted, additional reimbursement in the amount of $2,549.08 is recommended.

Conclusion

For the reasons stated above, the division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is $2,549.08.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of $2,549.08 per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

Authorized Signature

Signature	Medical Fee Dispute Resolution Officer	December 7, 2012 Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party**.

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.